

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013060274

ORDER DENYING REQUEST FOR
STAY PUT, WITHOUT PREJUDICE

On June 4, 2013, Student filed a complaint with the Office of Administrative Hearings (OAH), with a request for stay put. District requested additional time to file a response, but in light of this Order, the District's request for additional time is denied as moot.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006)¹; Ed. Code, § 56505 subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational placement is typically the placement called for in the student's individualized education program (IEP), which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

In California, "specific educational placement" is defined as "that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs," as specified in the IEP. (Cal. Code Regs., tit. 5, § 3042.)

DISCUSSION

The complaint objects to Student's current placement as inappropriate because the other students are nonverbal and behave badly, requiring most of the teacher's attention. The classroom does not provide good role models. Parent contends that Student has failed to make academic progress in his present classroom placement and that Student continues to struggle with expressive and receptive speech, pronunciation, staying on task, and

¹ All references to the Code of Federal Regulations are to the 2006 edition, unless otherwise indicated.

pragmatics. He requires occupational therapy (OT) because Student has problems with cutting, writing, and sensory processing.

Parent requests stay put for Student's language and speech (LAS) therapy, as well as OT. The complaint states that Parent does "not agree with removing [Student] from his therapies. . ." However, the complaint does not identify what therapies Student has been receiving or what therapies might be removed. The complaint also does not state what individualized educational program (IEP) was last implemented.

Stay put requires that the current educational placement called for in the student's individualized education program (IEP), which was last implemented prior to the dispute arising, shall continue until due process hearing procedures are complete. Placement includes services which had been implemented in accordance with the IEP.

Here, the complaint fails to identify the IEP that had been implemented and what SAL and OT services Student had been receiving. Unless the complaint or motion for stay put identifies the IEP and the services, a stay put order cannot issue because the stay put placement and services cannot be specified.

Accordingly, the motion for stay put is denied, without prejudice to the filing of a motion for stay put which properly identifies the implemented IEP and related services.

IT IS SO ORDERED.

Dated: June 10, 2013

/s/

CLIFFORD H. WOOSLEY

Administrative Law Judge

Office of Administrative Hearings